



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 1665 (1951)

October 28, 1987

SUBJECT: Hearing Officers for Salary Offset

TO: All State Directors and State Directors-at-Large, FmHA

Purpose/Intended Outcome:

This Administrative Notice (AN) is issued to provide additional guidance to State Offices concerning obtaining hearing officers for salary offset appeals.

Comparison With Previous AN:

AN Number 1660 dated October 22, 1987, required that salary offset information be reported to the National Office.

Implementation Responsibilities:

FmHA Instruction 1951-C requires that appeals of proposed salary offset will be heard by a hearing officer who is either an Administrative Law Judge (ALJ) or is not an employee of the United States Department of Agriculture (USDA). ALJs are usually not available and most agencies with large numbers of offices in rural areas are part of USDA, including Forest Service (FS), Soil Conservation Service (SCS), and the Agricultural Stabilization and Conservation Service (ASCS). Therefore, it is necessary for State Offices to locate employees of other Departments who will serve as hearing officers in exchange for FmHA providing hearing officers for their appeals.

Each State Director should seek to establish a Memorandum of Understanding (MOU) with another Federal agency outside USDA in their State. This includes, but is not limited to, the United States Postal Service (USPS), the Internal Revenue Service (IRS), the Department of Defense (DOD), the Department of Health and Human Services (HHS), or the Veterans Administration (VA). A sample MOU is attached, but this may be amended as appropriate.

The MOU states FmHA and the other Agency will provide hearing officers to hear each others salary offset appeals. Each State Director will ensure that an FmHA employee with loan-making experience, or the State Administrative Officer, is made available to serve as a hearing officer promptly upon a request made by the Agency with which the MOU is executed. In addition, to the extent permitted by official Agency duties, each State Director may provide hearing officers as requested for agencies other than the Agency with which the MOU is executed.

EXPIRATION DATE: August 31, 1988

FILING INSTRUCTIONS:

Preceding FmHA Instruction 1951-C



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Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

Every effort will be made to avoid requiring a hearing officer to travel. If travel is unavoidable, the hearing officer's travel cost will be paid by FmHA from the State's travel budget. The State Director will ensure that any Agency requesting an FmHA employee to serve as a hearing officer will pay that employee's travel cost.

A handwritten signature in dark ink, appearing to read "Vance L. Clark", followed by a long horizontal flourish line.

VANCE L. CLARK
Administrator

Attachment

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Memorandum of Understanding (MOU) between the Farmers Home Administration (FmHA) of the United States Department of Agriculture (USDA) and the _____ (Name of the non-USDA organization) for providing hearing officers to resolve disputes concerning salary offset.

Federal statute requires that individuals who are proposed for salary offset have the opportunity for a hearing conducted by a hearing officer who is not an employee of the Department to which the debt is owed, or by an Administrative Law Judge (ALJ). Since obtaining the services of an ALJ often is not possible, FmHA and _____ are executing this MOU to ensure that the appellant's right to a prompt and impartial hearing is preserved.

FmHA and _____ will:

1. Attempt to resolve all disputes without resorting to a hearing.
2. Promptly provide an employee to serve as a hearing officer when requested.
3. Conduct hearings based on written submissions in any case where such hearings are permitted by statute and agency regulations.
4. Conduct oral hearings by conference call, if possible.
5. Promptly provide all information that bears on the case to the hearing officer to ensure that the hearing officer is aware of the circumstances giving rise to the obligation. The hearing officer must receive, as a minimum, the original or a copy of documentation that is the Agency's proof that the appellant is liable for the debt, documentation of attempts to collect the debt through means other than salary offset, and any information provided by the appellant contesting the debt or requesting an adjusted repayment schedule.
6. Provide satisfactory facilities for an on-site hearing, when required, including taping of the proceedings.
7. Issue a written decision not later than 60 days after the filing of the petition requesting a hearing, unless the appellant requests a delay in the proceedings and the Agency requesting the offset agrees to that delay. The written decision will state the nature of the facts supporting the origin of the debt, the hearing officer's analysis, findings, and conclusions as to the amount and validity of the debt, and repayment schedule. Both the appellant and the Agency requesting offset will be provided with a copy of the written decision.

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8. Request no compensation. with the exception of travel related expenses, from the Agency requiring the services of the hearing officer.

(Name)

State Director, FmHA

(Name)

Title of Other Official